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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,420	10/01/2003	Myriam Kauffmann	243276US26	5165

22850 7590 06/24/2005

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

HUYNH, KHOA D

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 06/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/674,420

Applicant(s)

KAUFFMANN ET AL.

Examiner

Khoa D. Huynh

Art Unit

3751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-63 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Election/Restrictions

1. This application contains claims directed to the following patentably distinct species of the claimed invention: Species 1 (as depicted in Fig. 1); Species 2 (as depicted in Fig. 9); Species 3 (as depicted in Fig. 36); Species 4 (as depicted in Fig. 37).
2. Furthermore, if applicant elects Species 1, this application is further subject to the following Subspecies: Subspecies 1A (as depicted in Figs. 2-5); Subspecies 1B (as depicted in Figs. 10-13); Subspecies 1C (as depicted in Figs. 14-16); Subspecies 1D (as depicted in Figs. 17-20); Subspecies 1E (as depicted in Figs. 21-30); Subspecies 1F (as depicted in Figs. 31-32); Subspecies 1G (as depicted in Fig. 33); Subspecies 1H (as depicted in Fig. 34); Subspecies 1I (as depicted in Fig. 34)
3. Furthermore, if applicant elects Species 2, this application is further subject to the following Subspecies: Subspecies 2A (as depicted in Figs. 2-5); Subspecies 2B (as depicted in Figs. 10-13); Subspecies 2C (as depicted in Figs. 14-16); Subspecies 2D (as depicted in Figs. 17-20); Subspecies 2E (as depicted in Figs. 21-30); Subspecies 2F (as depicted in Figs. 31-32); Subspecies 2G (as depicted in Fig. 33); Subspecies 2H (as depicted in Fig. 34); Subspecies 2I (as depicted in Fig. 34)
4. Furthermore, if applicant elects Subspecies 1B or 2B, this application is further subject to the following Subspecies: Subspecies 1Ba or 2Ba (as depicted in Fig. 10);

Subspecies 1Bb or 2Bb (as depicted in Fig. 11); Subspecies 1Bc or 2Bc (as depicted in Fig. 12)

5. Furthermore, if applicant elects Subspecies 1D or 2D, this application is further subject to the following Subspecies: Subspecies 1Da or 2Da (as depicted in Fig. 18); Subspecies 1Db or 2Db (as depicted in Figs. 19-20)

6. Furthermore, if applicant elects Subspecies 1E or 2E, this application is further subject to the following Subspecies: Subspecies 1E1 or 2E1 (as depicted in Fig. 21); Subspecies 1E2 or 2E2 (as depicted in Fig. 22); Subspecies 1E3 or 2E3 (as depicted in Fig. 23); Subspecies 1E4 or 2E4 (as depicted in Fig. 24); Subspecies 1E5 or 2E5 (as depicted in Fig. 25); Subspecies 1E6 or 2E6 (as depicted in Fig. 26); Subspecies 1E7 or 2E7 (as depicted in Fig. 27); Subspecies 1E8 or 2E8 (as depicted in Figs. 28-29); Subspecies 1E9 or 2E9 (as depicted in Fig. 30)

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species/subspecies for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, none of the claims are held to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species/subspecies that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species/subspecies. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

7. A telephone call was made to Mr. Steven P. Weihrouch on 06/21/2005 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement is traversed (37 CFR 1.143).

8. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Khoa D. Huynh whose telephone number is (571) 272-4888. The examiner can normally be reached on M-F (7:00-4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Khoa D. Huynh
Primary Examiner
Art Unit 3751

HK
06/21/2005